

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|-------------------------|
| In re: |) | CHAPTER 11 |
| |) | |
| CATHOLIC DIOCESE OF WILMINGTON, INC., |) | Case No. 09-13560 (CSS) |
| a Delaware corporation, |) | |
| Debtor. |) | |
| <hr style="width: 50%; margin-left: 0;"/> | | Re: Docket No. 1239 |

**LIMITED OBJECTION AND RESERVATION OF RIGHTS
OF CHARLES WIGGINS TO CONFIRMATION OF SECOND AMENDED PLAN OF
REORGANIZATION OF DEBTOR CATHOLIC DIOCESE OF WILMINGTON, INC.**

Charles Wiggins (“Wiggins”) files this limited objection and reservation of rights in response to the above-referenced proposed plan of reorganization (the “Plan”) of the above-captioned debtor (“Debtor”).

SUMMARY

Wiggins acknowledges that the Debtor and others have put a great deal of time and effort into crafting a plan of reorganization in a highly contentious, complex and difficult case. Wiggins does not generally oppose confirmation of the Plan. However, Wiggins has two concerns:

1. *Provisions concerning disclosure of personnel files.* The Plan appears to give committee members the ability to give Wiggins’ entire personnel file to anyone or to publicly disclose its contents. Wiggins objects to this provision as violative of his rights, as well as being overbroad and unnecessary, at least to the extent these provisions are intended to apply to him. Wiggins notes that he has never been found by any civil or Church authority to have engaged in sexual abuse.

2. *Reservation of Rights.* Wiggins has submitted a claim in the Debtor’s bankruptcy case, while reserving his rights to argue that he holds a right to continuing payments, rather than

and/or in addition to a pre-petition claim. Wiggins does not ask the Court to rule on any of these issues, as they are not before the Court in any event. Moreover, Wiggins does not believe that anything in the Plan affects or impairs any ongoing rights to benefits he may have (and, at least in the case of the Settlement Plan, any pre-petition claim), however, he makes this reservation of rights in an abundance of caution.

FACTUAL BACKGROUND

A. Benefits

Wiggins was employed by the Debtor beginning in approximately 1984. While employed by the Debtor, Wiggins received the following:

- Salary;
- Health care insurance; and
- A right to participate in a pension plan (believed to be conditioned on 25 years of service).

In January, 2003, Wiggins was barred from continuing in active ministry based on allegations of inappropriate conduct toward minors, in particular, giving foot massages. Wiggins was later sued by an alleged victim, but that suit was dismissed on procedural grounds. No criminal action has ever been commenced.

Wiggins took an appeal through the Roman Catholic Church's internal procedures and the appellate authority in Rome ordered that Wiggins be reinstated to active ministry. While the Debtor has not implemented that directive, Debtor did continue to pay Wiggins what has been referred to as "sustenance."

On October 18, 2009, Debtor filed its chapter 11 petition with this Court. Soon afterwards, Debtor filed a motion for permission to continue to make "sustenance" payments to Wiggins and several other individuals. DI 137. Facing strong opposition from the Official

Committee of Unsecured Creditors (the “Committee”), Debtor eventually withdrew that motion and stopped making any payments to Wiggins.

Wiggins has been informed that it is Debtor’s position that he is no longer an employee and has no right to salary, health care, pension plan participation--or sustenance, for that matter. Wiggins does not agree with the Debtor’s position. In particular, based on the Debtor’s own internal operating procedures, which effectively incorporate Chruuch law, Wiggins has remained, or at least should have remained, an employee of Debtor, such that Wiggins should be entitled to the benefits stated above. Alternatively, Wiggins believes that he is entitled to sustenance and other benefits. These issues are admittedly not before the Court.

B. Personnel File

On December 11, 2009, Wiggins filed his Motion For Protective Order from Production And Disclosure Of His Personnel File in Adv. No. 09-52275 (ADI 28) (the “Motion for Protective Order”). The Committee filed an objection to the Motion for Protective Order. That motion was eventually disposed of by this Court by Order dated January 21, 2010 (the “Order”). In that Order, the Court ruled, *inter alia*, that (i) Debtor is directed to produce Wiggins’ *entire unredacted* personnel file to counsel to the Committee; (ii) no others were entitled to view the file absent further order of the court; (iii) the order was without prejudice to the right of any party-in-interest to seek production of the personnel file, or any portion thereof, in any non-bankruptcy legal proceeding.

ARGUMENT

1. Reservation of Rights

The issue of whether Wiggins is entitled to continuing or past benefits, or the allowance or disallowance of his proof of claim, are not issues that are before the court. Wiggins notes that, at least under a Settlement Plan, to the extent he has a pre-petition claim, such claim, whether

priority or otherwise, would be unimpaired under that Plan. See, e.g. Plan §§ 4.2, 4.6(a), 4.8(a). Generally, to be “unimpaired” means that a claim must either be unaltered or, if accelerated, cured and reinstated. 11 U.S.C. § 1124. To the extent Wiggins may have some continuing rights as an (alleged) employee or otherwise, the Plan would not appear to alter (or elevate) such right. Moreover, the Plan vests the Debtor with the right to continue in its operations post-bankruptcy. See generally, Plan, Art. XVII.

Accordingly, it appears that the Settlement Plan does not impair any claims that Wiggins may have, and, neither a CDOW nor a Settlement Plan appear to affect any continuing rights to benefits that Wiggins may have. Wiggins merely states that he reserves any and all of his rights. Wiggins understands that the Debtor reserves any right to oppose any claim or right asserted by him.

2. Limited Objection re: Personnel File

Wiggins believes that this Court made a reasonable ruling on the issue of his personnel file in its previous Order. Wiggins submits that, at least as to him, a similar provision should be incorporated into the Plan. In this vein, Wiggins would note the following:

■ The Plan contains extraordinarily broad disclosure provisions concerning personnel files of accused abusers. In particular, in Plan Exhibit “D” (NON-MONETARY PROVISIONS RELATING TO DOCUMENTS”) provides, *inter alia*:

- The Debtor and certain other entities are required to produce to the Committee any and all records allegedly related to abuse, including personnel files;
- Significantly, there appears to be *no restriction whatsoever* on the Committee’s ability to use any documents in any way (paragraph 5 states in its last sentence “Subject to the limitations of paragraph 6, *the Committee and its members shall*

have sole and exclusive authority to use such Documents in any matter that they may deem appropriate”).

■ First and foremost, Wiggins’ personnel file should be excluded from the document procedures because: (A) his admitted conduct does not meet the definition of ‘abuse’ (Exhibit A to the Plan, Paragraph 1) and (B) he is, therefore, not a ‘perpetrator’ (Exhibit A to the Plan, Paragraph 101)

■ In this vein, while Wiggins has admitted to engaging in certain inappropriate professional conduct, no civil court or Church court has ever ruled that Wiggins engaged in sexual misconduct; in fact, the Debtor has been advised by the appellate authority in Rome that Wiggins did not commit a canonical offense a child.

■ The issue here is decidedly *not* whether Wiggins’ personnel file, or any portion of it, should be discoverable in a civil or criminal action. Indeed, this Court’s Order has already specifically stated that nothing in the bankruptcy proceedings shall prejudice the right of any party to any litigation to seek production of Wiggins’ personnel file or any portion thereof.

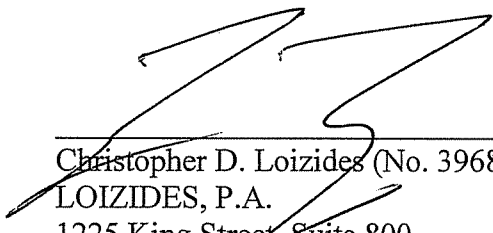
■ Nor is the issue whether the Committee should have access to Wiggins’ personnel file—indeed, pursuant to the Order, Wiggins’ *entire* personnel file has *already* been turned over to the Committee (or at least its counsel).

■ To the contrary, the sole issue is whether Wiggins’ personnel file should be made available to *anyone* for *any reason or no reason at all*. Under the procedures in question, nothing appears to prevent the Committee or any of its members, *without any notice to Wiggins*, from copying Wiggins’ entire personnel file and, for example, posting it on the internet, sending it to news media, etc.

■ If the issue here is the protection of alleged victims, then one would think that the normal rules of discovery would be sufficient. Wiggins is not asking this Court to grant any

special protection to his personnel file. However, Wiggins submits that requiring the Debtor to permit his entire personnel file to be publicly disclosed, especially in the absence of any finding of specific sexual abuse, without any notice in these circumstances is improper, extrarodinarily overbroad and serves no one's interests.

DATED: June 30, 2011



Christopher D. Loizides (No. 3968)
LOIZIDES, P.A.
1225 King Street, Suite 800
Wilmington, DE 19801
Telephone: (302) 654-0248
Facsimile: (302) 654-0728
Email: loizides@loizides.com

Counsel for Charles Wiggins

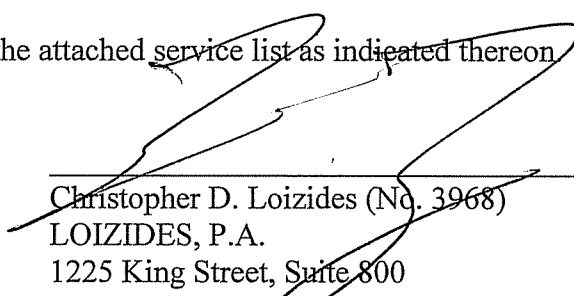
**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|---------------------------------------|---|-------------------------|
| In re: |) | CHAPTER 11 |
| |) | |
| CATHOLIC DIOCESE OF WILMINGTON, INC., |) | Case No. 09-13560 (CSS) |
| a Delaware corporation, |) | |
| Debtor. |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I, Christopher D. Loizides, hereby certify that on June 30, 2011, I did cause to be served true and correct copies of the foregoing **LIMITED OBJECTION AND RESERVATION OF RIGHTS OF CHARLES WIGGINS TO CONFIRMATION OF SECOND AMENDED PLAN OF REORGANIZATION OF DEBTOR CATHOLIC DIOCESE OF WILMINGTON, INC.** on the parties listed on the attached service list as indicated thereon.

DATED: June 30, 2011



Christopher D. Loizides (No. 3968)
LOIZIDES, P.A.
1225 King Street, Suite 800
Wilmington, DE 19801
Telephone: (302) 654-0248
Facsimile: (302) 654-0728
Email: loizides@loizides.com

SERVICE LIST

VIA FACSIMILE

James L. Patton, Jr., Esquire
Robert S. Brady, Esquire
Maris J. Finnegan, Esquire
Patrick A. Jackson, Esquire
YOUNG CONAWAY STARGATT & TAYLOR LLP
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
Fax: (302) 571-1253
Counsel for Debtors

Laura Davis Jones, Esquire
Curtis A. Hehn, Esquire
Mark M. Billion, Esquire
PACHULSKI STANG ZIEHL & JONES LLP
919 N. Market Street, 17th Floor
P.O. Box 8705
Wilmington, DE 19899-8705
Fax: (302) 652-4400
Counsel for Official Committee of Unsecured Creditors

James I. Stang, Esquire
Hamid R. Rafatjoo, Esquire
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Bl., 11th Floor
Los Angeles, CA 90067
Fax: (310) 201-0760
Counsel for Official Committee of Unsecured Creditors

Donald J. Detweiler, Esquire
PEPPER HAMILTON LLP
1313 Market Street, Suite 5100
Wilmington, DE 19801
Fax: (302) 421-8390
Proposed Counsel for Lay Employees Committee

David Klauder, Esquire
OFFICE OF THE U.S. TRUSTEE
844 N. King Street, Room 2207
Lockbox 35
Wilmington, DE 19801
Fax: (302) 573-6497